

**REPORT WITH RESPECT TO THE APPLICATION FOR REVIEW OF [REDACTED]
[REDACTED] IN RELATION TO INFORMATION REQUESTED FROM
SASKATCHEWAN GOVERNMENT INSURANCE**

[1] By access to Information Request Form dated March 11, 2002, [REDACTED] (the “Applicant”) requested of Saskatchewan Government Insurance (the “Respondent”) that they provide him with access to his complete file and all information regarding his injury claim recorded as Injury File [REDACTED].

[2] The Respondent replied to the Applicant’s request by letter dated March 25, 2002 which read as follows:

“Your application under *The Freedom of Information and Protection of Privacy Act* (FOI Act) received in this office on March 13, 2001 asks for all documents from your Injury File [REDACTED].

Under letter dated April 4, 2000, [REDACTED], SGI Manager Bodily Injury North provided you with copies of all disc losable documents from File: [REDACTED]. I am accordingly enclosing herewith only those file documents bearing date after April 4, 2000 including documents from your two other injury files [REDACTED] and [REDACTED]. SGI’s copies of the pleadings from the action you commenced in the Queen’s Bench Court for Saskatchewan at the Judicial Centre of Saskatoon as No. [REDACTED] of A. D. 2000 have either been provided to you previously or are available from the office of the Local Registrar in Saskatoon and are not enclosed with this letter.

In accordance with Section 8 of the FOI Act, some of the information has been withheld because:

1. it would disclose consultations or deliberations involving officers or employees of SGI. Consultations or deliberations involving officers or employees of a government institution are exempt from disclosure. This exemption is provided for in section 17 (1)(b)(i) of the FOI Act;
2. it contains information that is subject to solicitor-client privilege. Information that is subject to solicitor-client privilege is exempt from disclosure. This exemption is provided for in section 22(a) of the FOI Act.

If you wish to have this decision reviewed you may do so within one year of this notice. To request a review you must complete a "Request For Review" form which is available at the same location where you applied for access. Your Request For Review should be directed to:

G. L. Gerrand Q.C.
Information and Privacy Commissioner
500 Bank of Canada Building
Regina, Canada
S4P 3B2

Further correspondence on this application should be directed to me at SGI, Legal Department, 14th Floor, 2260 – 11th Avenue, Regina, Saskatchewan, S4P 0J9, Telephone (306) 751-1221.

Yours truly,

K.A. Lerner
Access Officer
Freedom of Information

SGI”

[3] On April 2, 2003, I received a Request for Review from the Applicant, which stated:

“There are documents and further information available from the insurer and not provided for accidents [REDACTED] – information on [REDACTED] [REDACTED] including GIS injury Note by [REDACTED] dated May 23rd 2000 – SGI Correspondence, notes, memoranda including SGI injury policy manual.”

[4] I then wrote to the Respondent on April 2, 2003 as follows:

“Mitchell T. Miller
Access and Privacy Officer
Freedom of Information
SGI Legal Department
14th Floor, 2260 – 11th Avenue
Regina, Saskatchewan
S4P 2J6

Dear Mr. Miller:

Re: SGI Application No. [REDACTED]
Our File Reference 2003/022 RPR

I today received a Request for Review from the above named and enclose herewith the yellow copy of same.

I am uncertain as to what documents and further information the Applicant is referring to and would accordingly request that you forward me a copy

of the Applicant's original Access to Information Request Form, as well as your response.

As I will be conducting a review, I would appreciate your forwarding to me copies of the documents or record to which access has been denied together with your reasons and authority for refusing such access.

Please feel free to call me if you have any questions.

Yours truly,

Richard P. Rendek, Q.C.
Acting Freedom of Information and
Privacy Commissioner
Province of Saskatchewan

[5] The Respondent replied by letter dated April 4, 2003 which read:

"Thank you for your letter of April 2, 2002.

Enclosed are copies of [REDACTED] original Access to Information Request Form, together with a copy of Ken Lerner's response of March 25, 2002. Mr. Lerner was SGI's Access Officer at the time.

Also enclosed are copies of the 20 pages of documents the SGI did not disclose to [REDACTED]. As noted in Mr. Lerner's letter, these documents were not disclosed because they involved the consultations or deliberations of officers or employees of SGI (exempt under subsection 17(1)(b)(i) of the Act) or because they contained information that is subject to solicitor-client privilege (exempt under section 22(a) of the Act). Our reasons for refusal of disclosure have not changed.

I look forward to receiving your recommendation.

Yours truly,

Mitchell T. Miller
Access and Privacy Officer
Freedom of Information
SGI”

[6] Attached to the Respondent’s reply was 20 pages of material that consisted of the following 14 documents:

1. File memorandum dated April 12, 2000 entitled “Injury Note” created by [REDACTED], SGI Adjuster outlining discussions with Applicant and management re current status of claim.
2. File memorandum dated September 27, 2000 entitled “Injury Note” created by [REDACTED] outlining discussions with her senior and with Dr. [REDACTED].
3. Letter dated December 19, 2000 from [REDACTED] of SGI’s Legal Department to Ashmeade and Low Investigations Ltd. endorsing documents for service upon Applicant.
4. Invoice dated December 21, 2000 from Ashmeade and Low Investigations Ltd. to SGI Legal Department.
5. Copy of Document number 4 with notation “Paid, Dec 23/2000”
6. Interoffice memo dated December 22, 2000 from [REDACTED] to her legal assistant [REDACTED] respecting preparation of legal documents.
7. Letter dated January 2, 2001 from Ashmeade and Low Investigations Ltd. to [REDACTED] re attempted service of documents on Applicant.
8. Handwritten memo dated Jan 3/01 re court process.
9. Memo to file by “[REDACTED]” dated Jan 29/02 re discussion with [REDACTED], SGI Adjuster.

10. Memo to File by [REDACTED] dated February 14, 2002 regarding discussions with Applicant and [REDACTED] respecting current status of claim.
11. Memo dated Feb 15/02 from [REDACTED] to [REDACTED] of SGI respecting status of Applicant's court appeals.
12. Interoffice Memo dated February 26, 2002 from [REDACTED] to [REDACTED] regarding preparation of legal documents.
13. Interoffice Memo dated February 26, 2002 from [REDACTED] to [REDACTED] with instructions as to legal proceedings.
14. Interoffice Memo dated February 26, 2002 from [REDACTED] to [REDACTED] re preparation of letter and discussion of legal process.

[7] The Respondent's reply also re-iterated their position that access to these documents was refused as they were exempt from disclosure by virtue of the provisions of either sections 17(1)(b)(i) of 22(a) of the Freedom of Information and Protection of Privacy Act.

[8] These two sections read as follows:

“17(1) Subject to subsection (2), a head may refuse to give access to a record that could reasonably be expected to disclose:

...

(b) consultations or deliberations involving:

(i) officers or employees of a government institution;

...”

“22 A head may refuse to give access to a record that:

(a) contains information that is subject to solicitor-client privilege”

[9] I have now reviewed the withheld documents and I would comment as follows:

(a) Documents 1, 2, and 10 are file memoranda detailing discussions between the Respondents employees regarding the Applicant's injury claim.

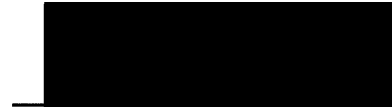
(b) The remaining eleven documents are memos, letters, or invoices to or from the Respondent's legal department dealing with various legal issues respecting the Applicant's injury claim.

[10] Clearly the three documents set out in sub-paragraph (a) above can be categorized as consultations or deliberations involving officers or employees and as such they are exempt from disclosure pursuant to the provisions of Section 17(1)(b)(i).

[11] Just as clearly, the remaining documents can be categorized as documents that contain information that is subject to solicitor-client privilege and as such they are exempt from disclosure pursuant to the provisions of Section 22(a).

[12] I would accordingly recommend that the Respondent continue to deny the Respondent access to the 14 documents in question.

[13] Dated at Regina, in the Province of Saskatchewan, this 28th day of April 2003.

A solid black rectangular box redacting the signature of Richard P. Rendek.

RICHARD P. RENDEK, Q.C.

Acting Commissioner of Information and
Privacy for Saskatchewan